

Department of Planning and Zoning

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Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



MEMORANDUM

To: DRB
From: Ken Lerner *[Signature]*
Date: July 15, 2014
RE: 13-1232CA/CU: 31 RIVERMOUNT TERRACE (RL, Ward 7) Gregory A Jenkins

One year review per condition 2 of approval for two bedroom bed and breakfast, one parking space waiver, widen driveway:

2. The Board requires that the applicant report back to them in one year's time to revisit the parking and traffic issues and determine whether the use meets the requirements of the ordinance. The Board reserves the right to revoke or modify the permit at that time, including reconsideration of the parking waiver.

Correspondence from a neighbor received October 25, 2013 states that: "As expected, Greg Jenkins has gone about running his B&B without regard to the conditions of approval by the Planning and Zoning review board. A check of the following AIRBNB web site will show that he is still offering 3 bedrooms for rent and advertises parking on the street in front of his house. To my knowledge he has not once had a guest park in his expanded driveway which was part of the agreement and one of the major concerns of neighbors when he asked for the variance and subsequent conditional use. These are both in direct violation of the conditions of approval dated July 22, 2013. He is also advertising and serving dinners which is not allowed for a bed and breakfast."

Based on this statement it would appear that with more vehicles than expected for a two room B&B, without serving diner, and with encouraging on-street guest parking are not in keeping with the approval. It is recommended that, unless the applicant can provide clear and convincing evidence indicating that no more than two rooms are rented and that meals and/or alcohol are not being served, the applicant shall not rent more than two rooms as allowed under the permit. He shall report back to the DRB within six months to again revisit the permit, and if any such conditions relative to any unpermitted uses continue the permit shall be revoked.

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Mary O'Neil

From: Gregory Jenkins <imzchef@gmail.com>
Sent: Monday, June 30, 2014 7:48 PM
Cc: Mary O'Neil
Subject: Re: 31 Rivermount Terrace

Hi Mary,

My business plan remains the same, no one just shows up, I do have a full time job and the last thing I want is someone to pound on my door after midnight, I am pleased to say this has not happened, I do like to sleep.

Last summer I spoke with Chapin Spenser about what people that arrive on bikes need. Solution is simple, key code for my garage door and space to park their bikes. Pleased to say I have hosted several bike tour groups. About 1/3 of my guest have arrived via a cab. When I get a reservation request I ask about how you will be arriving, I record this so that if I get another request I can plan parking. That fact is I get 2 cars on the weekend, sometimes one during the weekday, this is both profitable and far less than the cars I would get if I was just a 4 bedroom residential private home. I look forward to answering any questions the board may have of me. I am also going to forward an email from a FPF, please redact her email for the public.

Best,
Greg Jenkins
355-4562

On Wed, Jun 25, 2014 at 3:36 PM, Nic Anderson <nanderson@burlingtonvt.gov> wrote:

Hi Greg,

We have scheduled you for the **July 15th DRB**. You will get an agenda in the mail. In the mean time, we would like some detail in writing that addresses the condition:

1. **The Board requires that the applicant report back to them in one year's time to revisit the parking and traffic issues and determine whether the use meets the requirements of the ordinance.** The Board reserves the right to revoke or modify the permit at that time, including reconsideration of the parking waiver.

Looking at the specific wording of the condition, it would be good to get a written narrative on the last 12 months and if/how any traffic or parking issues have arose or been resolved and comment on the use and how it has operated, which would be helpful for the board. Please email directly to Mary O'Neil...cc'd on this email.

Your attendance at the hearing would also be good for any questions the board may have.

Ken Lerner

From: Jeanne Francis
Sent: Tuesday, October 29, 2013 4:11 PM
To: Ken Lerner
Subject: FW: 31 Rivermount

Can you take a look at airbnb.com site. He advertises he has 3 bedrooms but not that they are all available at once. He is approved for only 2 rooms. What do you think - violation or unsubstantiated?

-----Original Message-----

From: Peter B [mailto:vtgrinch@gmail.com]
Sent: Friday, October 25, 2013 3:27 PM
To: Jeanne Francis
Subject: Re: 31 Rivermount

Re. 31 Rivermount Terrace

10-25-13

Hi Jean,

I just stopped down to your office to introduce myself, sorry I missed you.

As expected, Greg Jenkins has gone about running his B&B without regard to the conditions of approval by the Planning and Zoning review board. A check of the following AIRBNB web site will show that he is still offering 3 bedrooms for rent and advertises parking on the street in front of his house. To my knowledge he has not once had a guest park in his expanded driveway which was part of the agreement and one of the major concerns of neighbors when he asked for the variance and subsequent conditional use. These are both in direct violation of the conditions of approval dated July 22, 2013. He is also advertising and serving dinners which is not allowed for a bed and breakfast.

<https://www.airbnb.com/rooms/1011802>

Sincerely,

----Peter Bahrenburg
54 Rivermount Terrace

> On Sep 4, 2013, at 4:25 PM, Jeanne Francis <JFrancis@burlingtonvt.gov> wrote:

>

> I did take a look, need to make a decision. Appeal date for zoning approval is Sept. 6. Will wait until then, then contact owner, and request he obtain a certificate of occupancy. That way we can look at all the conditions and approvals relating to this project.

>

> -----Original Message-----

> From: Gmail [mailto:vtgrinch@gmail.com]
> Sent: Tuesday, August 20, 2013 6:31 PM
> To: Jeanne Francis
> Subject: 31 Rivermount

>

> Hi Jean,

> Has anyone from your office had a chance to look at this driveway expansion to determine if it is a legal project?

>

Mary O'Neil

From: Gregory Jenkins <imzchef@gmail.com>
Sent: Monday, June 30, 2014 7:56 PM
To: Mary O'Neil
Subject: Fwd: Speeding

----- Forwarded message -----

From: Gregory Jenkins <imzchef@gmail.com>
Date: Tue, Jun 17, 2014 at 7:54 PM
Subject: Re: Speeding
To: Kelley Christie <kelleymchristie@gmail.com>

You were just fine Kelley and I thank you for posting, we all want to just feel safe.

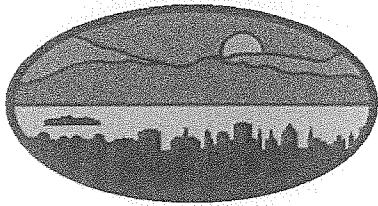
On Tue, Jun 17, 2014 at 7:51 PM, Kelley Christie <kelleymchristie@gmail.com> wrote:
I completely agree. It's a windy street! Anyway. I hope my post wasn't mean or hateful but just pleading for less speeding. I was trying to be diplomatic. I just want less speeding not just for my sake but for every pedestrian and every bicycler and every wild animal. Right? :-)

On Tuesday, June 17, 2014, Gregory Jenkins <imzchef@gmail.com> wrote:
YEA! Our street should be 15mph.

On Tue, Jun 17, 2014 at 7:41 PM, Kelley Christie <kelleymchristie@gmail.com> wrote:
No not one of yor guest at all. I think this car is a regular of a neighbor but I'm not sure. No you and your guests have never been disrespectful drivers. Thanks Greg. I'm glad you don't think my expectations are ridiculous. I've already received an email that said I should never expect people to drive the speed limit. Oh well.

On Tuesday, June 17, 2014, Gregory Jenkins <imzchef@gmail.com> wrote:
Hi Kelly,
I hope it was not one of my guests. I stress and it is part of the appeal, that this is a nice quiet place to sleep.

Greg the wind up car guy...



ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 06/10/2013

Appeal Expiration Date: 09/06/2013

Project Location: 31 RIVERMOUNT TERRACE

District: RL

Owner: Gregory A Jenkins

Ward: 7

Address: 31 RIVERMOUNT TER
BURLINGTON VT 05408

Tax ID: 029-4-056-000

Project Type: Residential - Change of Use

Project Description: Reapplication for two bedroom bed and breakfast, one parking space waiver requested, widen driveway.

Construction Cost:	\$500	Lot Size (Sq Ft):	12,973
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	12.60	Existing # of Parking Spaces:	2
Proposed % Lot Coverage:	14.56	Proposed # of Parking Spaces:	3
Net New % Lot Coverage:	1.96	Required # of Parking Spaces:	4

Zoning Permit #: 13-1232CA/CU

Decision By: Development Review Board

Level of Review: 1

Decision: Approved w/ Pre-Release Conditions

See Requirements for Permit Release

Decision Date: August 7, 2013

Project File: 13-1232CA/CU

Zoning Administrative Officer

Combined Review: Conditional Use

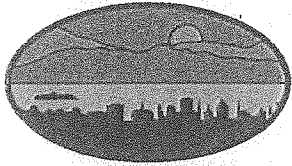
An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division until 4 pm on September 6, 2013.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$230.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	Not Applicable		

Building Permit Required: **Yes**

Permit Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA and Conditional Use – Conditions of Approval

ZP #: 13-1232CA/CU

Tax ID: 029-4-056-000

Issue Date: August 7, 2013

Decision: Approved w/ Pre-Release Conditions

Property Address: 31 RIVERMOUNT TERRACE

Description: Reapplication for two bedroom bed and breakfast, one parking space waiver requested, widen driveway.

Project Permit Conditions:

1. This approval is for a TWO bedroom Bed and Breakfast use. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the two bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaints.
2. **The Board requires that the applicant report back to them in one year's time to revisit the parking and traffic issues and determine whether the use meets the requirements of the ordinance.** The Board reserves the right to revoke or modify the permit at that time, including reconsideration of the parking waiver.
3. The Bed and Breakfast must be and remain owner occupied.
4. This approval will include a one-space parking waiver, to be exercised toward the resident/owner's parking requirement only, subject to reconsideration pursuant to Condition 2 above.
5. The driveway shall not exceed 18' in width, and shall meet all required setback requirements (not less than 5' from any property boundary.)
6. The applicant will be required to annotate a floor plan defining which rooms will be dedicated to the two-bedroom Bed and Breakfast use **prior to release of the zoning permit.**
7. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
8. All guest parking shall be on-site and off-street.
9. No sign of the Bed and Breakfast use, other than a (separately permitted) sign, shall be visible on the exterior of the residence.
10. Any signage will require a separate sign permit.
11. While the Development Review Board never entertains individual property covenant restrictions, it is noted that the warranty deed(s) for this parcel specifically identify restrictions that prohibit certain activities and limit uses. (Burlington Land Records, 1158:721, 156:175; waiver of restrictions (limited) 258:22.) The property owner is alerted to these restrictions, dated May 7, 1959 and recorded specifically in 156:175.
12. Standard Permit Conditions 1-15.
13. This approval is conditioned on the applicant's abandonment of the previous home occupation.

Standard Permit Conditions:

landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.

7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to one hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.
13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.

Burlington Development Review Board
149 Church Street
Burlington, VT 05401
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Telephone: (802) 865-7188
(802) 865-7195 (FAX)

Austin Hart, Chair
Jim Drummond
Michael Long
Brad Rabinowitz
Missa Aloisi
Jonathan Stevens
Bob Schwartz
Alexandra Zipparo, (alternate)
Vacant, (alternate)



Burlington Development Review Board
Findings of Fact
Deliberative Hearing Monday, July 22, 2013

Board Members Present: Austin Hart, Michael Long, Brad Rabinowitz, Missa Aloisi (not participating), Jim Drummond, Ali Zipparo.

Staff members present: Ken Lerner, Mary O'Neil.

File: ZP 13-0830CA/CU ¹²³²

Location: 31 Rivermount Terrace

Zone: RL **Ward:** 7

Date application accepted: June 10, 2013

Applicant/ Owner: Greg Jenkins

Request: The applicant has revised a previous zoning application to minimize the number of rooms for let at a proposed Bed and Breakfast. The application is now for Conditional use approval for **two** bedroom bed and breakfast. Widen driveway to accommodate one additional parking space. Parking waiver request for one space.



Background:

- **Zoning Permit request 13-0830CA/CU**, request for a three bedroom bed and breakfast; widen driveway to accommodate a single parking space, request to lease one parking space off site. Request denied April 23, 2013. Decision not appealed.
- **Zoning Permit 06-673BA**; replace brick stairs with wooden stairs, same size. Approved April 2006.
- **Zoning Permit 02-103**; replace wooden deck with patio. Approved August 2001.
- **Zoning Permit 01-405**; home occupation (mobile home loan broker) in the existing single family home. No exterior changes or signs included. Approved May 2001.
- **Non-Applicability of Zoning Permit Requirements:** repair of front brick steps. June 1989.

Overview: The applicant wishes to convert 2 of his four bedrooms to bed and breakfast use. A third bedroom is proposed to be converted to an exercise/hot tub room, a single bedroom will serve the owner/occupant. There exists a single width driveway at present; proposed to be expanded to accommodate additional parking to provide 3 parking spaces on-site. A single space parking waiver is requested.

Evidence Presented:

The Board examined the materials submitted in support of this request.

I. Minutes

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

II. Motion by Austin Hart:

I move that the Board approve the application, and adopt the following findings and conditions:

III. Findings

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Sec. 3.5.6 (a) Conditional Use Review Standards

1. Capacity of existing or planned community facilities.

The change of use to a bed and breakfast appears to pose no identified impact to the capacity of existing or planned community facilities. **Affirmative finding.**

2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan.

This is an existing, developed residential neighborhood. The conversion of two bedrooms in a low density residential neighborhood to rental lodging may have some impact on traffic and circulation, but not noticeably greater than a family with multiple drivers. If most cars are located on-site and only 2 bedrooms are intended for rental, the anticipated impact would be negligible.

Affirmative finding.

3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;

The proposed rental of two bedrooms has the potential of introducing at least two more vehicles to the parking demand, which already has a requirement for 2 parking spaces for the existing single family residential use. The change of use will likely increase traffic and circulation from the present residential demand of this parcel, however not to noticeable so as to affect the overall neighborhood. **Affirmative finding.**

4. Any standards or factors set forth in existing City bylaws and city and state ordinances;

The application and resultant change in use will be required to meet all bylaws and city and state ordinances in effect at the time of decision. **Affirmative finding as conditioned.**

5. The utilization of renewable energy resources;

See Section 6.2.2 (e), below.

and,

In addition to the General Standards specified above, the DRB;

6. *shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;*

A Bed and Breakfast is a special category residential use. The revised application, which diminishes the number of rooms proposed to be let, and the elimination of a request for an off-site parking lease minimizes the intensity and associated impact of the new use. It is possible to consider a conditioned Bed and Breakfast use within the low density residential district with such limitations to address impacts of traffic, circulation, parking, and intensity of activity. **Affirmative finding.**

7. *in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.*

The change-of-use proposed is for a special residential use, and has different review criteria than identified within this standard.

8. *may control the location and number of vehicular access points to the property, including the erection of parking barriers.*

No change to existing. Not applicable.

9. *may limit the number, location and size of signs.*

Any signage will require a separate permit, and will be limited by the standards for this zoning district. Not applicable.

10. *may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The applicant includes the proposal to expand the existing driveway to accommodate another parking space. Any headlight glare will likely affect only the subject property. **Affirmative finding as conditioned.**

11. *may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.*

Construction is typically limited by the zoning permit; i.e., one year to begin construction, two years to finish. **Affirmative finding as conditioned.**

12. *may specify hours of operation and/or construction to reduce the impact on surrounding properties.*

The applicant proposes being open 24 hours a day 7 days a week. If approved, arrivals are recommended to commence after 7:00 am and cease after 10:00 pm to preserve characteristic neighborhood quiet. Any limitations are at the discretion of the board. **Affirmative finding if conditioned.**

13. *may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.*

Footnote #4 in Appendix A informs that not more than 3 rooms may be let for that purpose in the RL district. Previous permit review has illustrated that parking limitations have functionally limited consideration of additional room rental. Future regulations may allow for different circumstances.

Affirmative finding if conditioned.

14. may consider performance standards, should the proposed use merit such review.

The applicant has requested a one-space parking waiver toward the parking requirement for the proposed 2 bedroom Bed and Breakfast. The applicant is a single individual property owner with a single vehicle, who will occupy one bedroom. With this information, it is possible to consider a one-space parking waiver for the resident parking requirement. The other two required parking spaces for guest use will be located on-site. The Board is requesting that the applicant return in one year to present and address any neighborhood concerns. **Affirmative finding as conditioned.**

15. may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

As noted, the DRB may request the applicant/owner to return after a period of time to assess neighborhood impacts, if appropriate. **Affirmative finding if conditioned.**

Article 4: Zoning Maps and Districts

Table 4.4.5-3 Residential District Dimensional Standards

Zone	Max lot coverage	Minimum Building Setbacks			Height
RL	35%	Front Min/Max: Ave. of 2 adjacent lots on both sides +/- 5'	Side Min: 10% of lot width, but in no event less than 5'	Rear 25% of lot depth but in no event less than 20'.	Max 35'
31 Rivermount Terrace	12.6% existing; 14.56% proposed	Not applicable	Not applicable	Not applicable	Not applicable.

Affirmative finding.

Sec. 4.4.5 (c) Permitted and Conditional Uses

A Bed and Breakfast is a Conditional Use in the RL zoning district.

Appendix A – Use Table has 2 footnotes for Bed and Breakfast Use:

#4 :no more than 3 rooms permitted to be let in the RL district.

The application proposes 2 bedrooms.

#6: Must be owner occupied.

The applicant lives at the subject property.

The property has previous been approved for a home occupation:

Zoning Permit 01-405; home occupation (mobile home loan broker) in the existing single family home.

The applicant agreed in a March 27, 2013 email that the home occupation will be abandoned for this request.

Findings of Fact

Affirmative finding.

Article 5: Citywide General Regulations

Sec. 5.1.1 Uses

(d) Conditional Uses

A conditional use is listed in any district where denoted by the letters "CU" in Appendix A – Use Table. Such uses may be permitted by the DRB only after review under the conditional use provisions provided in Article 3, Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity imitations, performance and design standards, and parking requirements.

A Bed and Breakfast is a Conditional Use in Appendix A, Use Table, for the RL District. The project meets the two footnote requirements; see Sec. 4.4.5(c), above. The subject parcel, however, does not at present meet the parking requirements for the proposed use. A driveway expansion is proposed to offer a third on-site parking space. The DRB previously approved a driveway expansion that had been administratively denied as constituting front yard parking (Zoning Permit 09-778CA/AP, 1323 North Avenue. See Article 8, Sec. 8.1.12, (c)). Given the limitation that the driveway cannot be wider than 18', and the cited decision precedent, the driveway expansion as proposed may be considered. **Affirmative finding as conditioned.**

Part 2: Dimensional Requirements

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.3. Lot Coverage Requirements

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.4. Buildable Area Calculation

For any properties two or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district...
31 Rivermount Terrace is not more than two acres in size. This standard does not apply.

Sec. 5.2.5. Setbacks

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.6, Building Height Limits.

See Section 4.4.5, Table 4.4.5-3, above.

Affirmative finding.

Sec. 5.2.7, Density and Intensity of Development Calculations

The application is for a change-of-use to a specialty residential use. It is viewed the same as a single dwelling unit for intensity purposes.

Affirmative finding.

Part 4: Special Use Regulations

Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

(b) Topographical Alterations

The applicant proposes cutting into an existing elevated grade and stone retaining wall to widen a driveway and create a new parking space for the proposed Bed and Breakfast. Alteration to the natural contour of the site should minimize grading, cut, fill and needs to take necessary measures to protect against erosion and future instability. The applicant proposes to remove the wall, and grade to low slope. Groundcover is submitted as a method of stabilization. No construction details or specifics have been submitted. Any retaining wall over 3' will require approval of the building inspector. **Affirmative finding as conditioned.**

(l) Parking and Circulation

The application, as proposed, will require 2 parking spaces for the resident use and 2 for the Bed and Breakfast. The applicant has requested to expand the driveway to provide one required space. A request for a one-space parking waiver is included, and intended to address the second parking space requirement for the owner.

As proposed, with two spaces provided on-site for guests, and a single space within the garage for the owner, it is not unreasonable to consider a single parking space waiver for the owner's parking requirement. **Affirmative finding if one-space parking waiver extended.**

Part 3: Architectural Design Standards

Not applicable.

Article 7: Signs

Any signage will require a separate sign permit. Any signage will be required to meet the standards of this article and specific standards of the zoning district.

Not applicable.

Article 8: Parking

Sec. 8.1.1 Purpose

It is the purpose of this article to:

- (a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;*
- (b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;*
- (c) Reduce congestion in the streets and contribute to traffic safety; and*
- (d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.*

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family residential use (Neighborhood Parking District) requires 2 parking spaces.

Bed and Breakfast (per room, in addition to single-family residence) 1 per room; 2 required.

Total parking requirement: 4 parking spaces. 2 are provided on-site (one in the garage, one in the single-lane driveway.) The applicant proposes expanding his driveway to the full 18' in width to provide an

Findings of Fact

additional parking space for a total of 3. There remains a deficiency of 1 parking space. The applicant has requested a one space waiver to be used toward the owner's requirement. This precedent has been acceptable in previous review: See 204 South Willard Street, ZP 1209942CU.

Affirmative finding, if parking waiver granted.

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-site parking facilities

1. *Neighborhood parking district. No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.*

The application is asking for a one space waiver for the owner's parking requirement. Three spaces will be provided on site: one for the owner/resident use, the other two to accommodate the 2 bedroom B & B. As proposed, more than 50% of the requirement parking spaces will be provided on-site. No off-site spaces are proposed.

Affirmative finding.

Sec. 8.1.12 (c) Front yard parking restricted

Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than eighteen feet or less in width.

The proposed driveway expansion is limited to 18' per this section. As noted, previous review by the DRB has allowed for expansion of a parking area to accommodate further parking (See ZP 09-778CA/AP, 1323 North Avenue.)

Per this precedent, the proposed driveway expansion does not constitute Front Yard Parking.

Affirmative finding.

Table 8.2.5-1 Bicycle Parking Requirements

Temporary lodging, include bed and breakfast: 1 per 20 rooms long term spaces, 2 per 20 rooms short term. The application, with 3 guest rooms, does not rise to the level to require bicycle parking. Given the interest in providing accommodations to cycling guests, bicycling parking is recommended outside of the reserved vehicular parking spaces.

Not applicable.

Article 13: Definitions

Bed and Breakfast: *An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.*

Affirmative finding as conditioned.

IV. Conditions of Approval

1. This approval is for a TWO bedroom Bed and Breakfast use. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the two bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaints.
2. **The Board requires that the applicant report back to them in one year's time to revisit the parking and traffic issues and determine whether the use meets the requirements of the**

ordinance. The Board reserves the right to revoke or modify the permit at that time, including reconsideration of the parking waiver.

3. The Bed and Breakfast must be and remain owner occupied.
4. This approval will include a one-space parking waiver, to be exercised toward the resident/owner's parking requirement only, subject to reconsideration pursuant to Condition 2 above.
5. The driveway shall not exceed 18' in width, and shall meet all required setback requirements (not less than 5' from any property boundary.)
6. The applicant will be required to annotate a floor plan defining which rooms will be dedicated to the two-bedroom Bed and Breakfast use **prior to release of the zoning permit.**
7. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
8. All guest parking shall be on-site and off-street.
9. No sign of the Bed and Breakfast use, other than a (separately permitted) sign, shall be visible on the exterior of the residence.
10. Any signage will require a separate sign permit.
11. While the Development Review Board never entertains individual property covenant restrictions, it is noted that the warranty deed(s) for this parcel specifically identify restrictions that prohibit certain activities and limit uses. (Burlington Land Records, 1158:721, 156:175; waiver of restrictions (limited) 258:22.) The property owner is alerted to these restrictions, dated May 7, 1959 and recorded specifically in 156:175.
12. Standard Permit Conditions 1-15.
13. This approval is conditioned on the applicant's abandonment of the previous home occupation.

Second: Brad Rabinowitz

Vote: 5-0 (M. Aloisi not participating.)

Vote: motion carried

Dated at Burlington, Vermont, this 7th day of August, 2013.

Respectfully Submitted,



Austin Hart, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:

(a) Notice of Appeal: The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.)